

STATE OF MICHIGAN
COURT OF APPEALS

ALLIANCE SHIPPERS, INC.,

Plaintiff/Counter-Defendant-
Appellant,

v

DAKOTA LINES, INC., and CONTINENTAL
CASUALTY COMPANY,

Defendants/Counter-Plaintiffs-
Appellees.

UNPUBLISHED

April 3, 2007

No. 272844

Wayne Circuit Court

LC No. 05-521700-CK

Before: Zahra, P.J., and Bandstra and Owens, JJ.

MEMORANDUM.

Plaintiff Alliance Shippers, Inc. (Alliance), appeals as of right from a circuit court order granting summary disposition to defendants Dakota Lines, Inc. (Dakota), and Continental Casualty Company,¹ pursuant to MCR 2.116(C)(10), in this action involving dual indemnification provisions. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

Summary disposition may be granted under MCR 2.116(C)(10) when “there is no genuine issue as to any material fact, and the moving party is entitled to judgment . . . as a matter of law.” This Court reviews a trial court’s decision on a motion for summary disposition de novo. *Maiden v Rozwood*, 461 Mich 109, 118; 597 NW2d 817 (1999). Interpretation of a contract presents a question of law, which this Court also reviews de novo. *DaimlerChrysler Corp v G-Tech Professional Staffing, Inc*, 260 Mich App 183, 184; 678 NW2d 647 (2003). An indemnity contract is construed in the same manner as other contracts, and if unambiguous, it must be enforced according to the plain and ordinary meaning of the words in the agreement. *Id.*, at 185.

¹ Alliance does not challenge the trial court’s ruling with respect to Continental Casualty Company.

Dakota Lines agreed to “indemnify, defend and hold harmless ALLIANCE from any and all claims for death or injury, to persons and loss or damage to property of any nature whatsoever, growing out of, or in any way arising from, the transportation of property of ALLIANCE or its beneficial or title owners or receivers, and whether by act or omission of CARRIER.” Alliance’s request for indemnity was not for a “claim for death or injury.” The Dakota employee whose accident gave rise to this case dismissed with prejudice his action against Alliance. Thus, his settlement proceeds were for “his claim against DaimlerChrysler,” not Alliance. Moreover, Alliance maintains on appeal that “all responsibility for the primary Plaintiff’s injuries should fall with DaimlerChrysler.”

Accordingly, Alliance’s demand against Dakota is for indemnity with respect to DaimlerChrysler’s contractual indemnity claim against Alliance. Because this claim is not “for death or injury,” it is outside the scope of the indemnification provision in the Dakota-Alliance contract.

We affirm.

/s/ Brian K. Zahra
/s/ Richard A. Bandstra
/s/ Donald S. Owens